

SO. CAL. EQUAL ACCESS GROUP  
Jason J. Kim (SBN 190246)  
Jason Yoon (SBN 306137)  
Kevin Hong (SBN 299040)  
101 S. Western Ave., Second Floor  
Los Angeles, CA 90004  
Telephone: (213) 252-8008  
Facsimile: (213) 252-8009  
cm@SoCalEAG.com

Attorneys for Plaintiff  
JARDINE GOUGIS

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

JARDINE GOUGIS,  
Plaintiff,

vs.

MICHEL HANNA WEHBE; and DOES 1  
to 10,  
Defendants.

**Case No.:**

COMPLAINT FOR INJUNCTIVE  
RELIEF AND DAMAGES FOR DENIAL  
OF CIVIL RIGHTS OF A DISABLED  
PERSON IN VIOLATIONS OF

1. AMERICANS WITH DISABILITIES  
ACT, 42 U.S.C. §12131 et seq.;

2. CALIFORNIA'S UNRUH CIVIL  
RIGHTS ACT;

3. CALIFORNIA'S DISABLED  
PERSONS ACT;

4. CALIFORNIA HEALTH & SAFETY  
CODE;

5. NEGLIGENCE

Plaintiff JARDINE GOUGIS ("Plaintiff") complains of Defendants MICHEL  
HANNA WEHBE; and DOES 1 to 10 ("Defendants") and alleges as follows:

**PARTIES**

1. Plaintiff is a California resident with a physical disability. Plaintiff is  
diagnosed with osteoarthritis on both hips and is substantially limited in her ability to  
walk. Plaintiff requires the use of a wheelchair at all times when traveling in public.

1           2. Defendants are, or were at the time of the incident, the real property owners,  
2 business operators, lessors and/or lessees of the real property for a gas station and  
3 convenience store (“Business”) located at or about 645 E. Foothill Blvd., San Dimas,  
4 California.

5           3. The true names and capacities, whether individual, corporate, associate or  
6 otherwise of Defendant DOES 1 through 10, and each of them, are unknown to Plaintiff,  
7 who therefore sues said Defendants by such fictitious names. Plaintiff will ask leave of  
8 Court to amend this Complaint when the true names and capacities have been  
9 ascertained. Plaintiff is informed and believes, and, based thereon, alleges that each such  
10 fictitiously named Defendants are responsible in some manner, and therefore, liable to  
11 Plaintiff for the acts herein alleged.

12           4. Plaintiff is informed and believes, and thereon alleges that, at all relevant  
13 times, each of the Defendants was the agent, employee, or alter-ego of each of the other  
14 Defendants, and/or was acting in concert with each of the other Defendants, and in doing  
15 the things alleged herein was acting with the knowledge and consent of the other  
16 Defendants and within the course and scope of such agency or employment relationship.

17           5. Whenever and wherever reference is made in this Complaint to any act or  
18 failure to act by a defendant or Defendants, such allegations and references shall also be  
19 deemed to mean the acts and failures to act of each Defendant acting individually, jointly  
20 and severally.

### 21                                   **JURISDICTION AND VENUE**

22           6. The Court has jurisdiction of this action pursuant to 28 USC §§ 1331 and  
23 1343 for violation of the Americans with Disabilities Act of 1990, (42 USC §12101, *et*  
24 *seq.*).

25           7. Pursuant to pendant jurisdiction, attendant and related causes of action,  
26 arising from the same nucleus of operating facts, are also brought under California law,  
27 including, but not limited to, violations of California Civil Code §§51, 51.5, 52(a), 52.1,  
28 54, 54., 54.3 and 55.

1 8. Plaintiff's claims are authorized by 28 USC §§ 2201 and 2202.

2 9. Venue is proper in this court pursuant to 28 USC §1391(b). The real  
3 property which is the subject of this action is located in this district, Los Angeles County,  
4 California, and that all actions complained of herein take place in this district.

5 **FACTUAL ALLEGATIONS**

6 10. In or about November of 2023, Plaintiff went to the Business.

7 11. The Business is a gas station and convenience store business establishment,  
8 open to the public, and is a place of public accommodation that affects commerce  
9 through its operation. Defendants provide parking spaces for customers.

10 12. While attempting to enter the Business during each visit, Plaintiff personally  
11 encountered a number of barriers that interfered with her ability to use and enjoy the  
12 goods, services, privileges, and accommodations offered at the Business.

13 13. To the extent of Plaintiff's personal knowledge, the barriers at the Business  
14 included, but were not limited to, the following:

- 15 a. Defendants failed to comply with the federal and state standards for  
16 the parking space designated for persons with disabilities. Defendants  
17 failed to provide proper van accessible space designated for the  
18 persons with disabilities as there were no "NO PARKING" markings  
19 painted on the surface of the access aisle.
- 20 b. Defendants failed to maintain the parking space designated for  
21 persons with disabilities to comply with the federal and state  
22 standards. Defendants failed to maintain the mark on the space with  
23 the International Symbol of Accessibility.
- 24 c. Defendants failed to maintain the parking space designated for  
25 persons with disabilities to comply with the federal and state  
26 standards. Defendants failed to maintain the paint on the ground as  
27 required.
- 28

1 d. Defendants failed to comply with the federal and state standards for  
2 the parking space designated for persons with disabilities. Defendants  
3 failed to provide an access aisle with level surface slope.

4 14. These barriers and conditions denied Plaintiff the full and equal access to the  
5 Business and caused Plaintiff difficulty and frustration. Plaintiff wishes to return and  
6 patronize the Business; however, Plaintiff is deterred from visiting the Business because  
7 her knowledge of these violations prevents her from returning until the barriers are  
8 removed.

9 15. Based on the violations, Plaintiff alleges, on information and belief, that  
10 there are additional barriers to accessibility at the Business after further site inspection.  
11 Plaintiff seeks to have all barriers related to her disability remedied. *See Doran v. 7-*  
12 *Eleven, Inc.* 524 F.3d 1034 (9<sup>th</sup> Cir. 2008).

13 16. In addition, Plaintiff alleges, on information and belief, that Defendants  
14 knew that particular barriers render the Business inaccessible, violate state and federal  
15 law, and interfere with access for the physically disabled.

16 17. At all relevant times, Defendants had and still have control and dominion  
17 over the conditions at this location and had and still have the financial resources to  
18 remove these barriers without much difficulty or expenses to make the Business  
19 accessible to the physically disabled in compliance with ADDAG and Title 24  
20 regulations. Defendants have not removed such barriers and have not modified the  
21 Business to conform to accessibility regulations.

## 22 **FIRST CAUSE OF ACTION**

### 23 **VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990**

24 18. Plaintiff incorporates by reference each of the allegations in all prior  
25 paragraphs in this complaint.

26 19. Under the Americans with Disabilities Act of 1990 (“ADA”), no individual  
27 shall be discriminated against on the basis of disability in the full and equal enjoyment of  
28 the goods, services, facilities, privileges, advantages, or accommodations of any place of

1 public accommodation by any person who owns, leases, or leases to, or operates a place  
2 of public accommodation. *See* 42 U.S.C. § 12182(a).

3 20. Discrimination, *inter alia*, includes:

- 4 a. A failure to make reasonable modification in policies, practices, or  
5 procedures, when such modifications are necessary to afford such  
6 goods, services, facilities, privileges, advantages, or accommodations  
7 to individuals with disabilities, unless the entity can demonstrate that  
8 making such modifications would fundamentally alter the nature of  
9 such goods, services, facilities, privileges, advantages, or  
10 accommodations. 42 U.S.C. § 12182(b)(2)(A)(ii).
- 11 b. A failure to take such steps as may be necessary to ensure that no  
12 individual with a disability is excluded, denied services, segregated or  
13 otherwise treated differently than other individuals because of the  
14 absence of auxiliary aids and services, unless the entity can  
15 demonstrate that taking such steps would fundamentally alter the  
16 nature of the good, service, facility, privilege, advantage, or  
17 accommodation being offered or would result in an undue burden. 42  
18 U.S.C. § 12182(b)(2)(A)(iii).
- 19 c. A failure to remove architectural barriers, and communication barriers  
20 that are structural in nature, in existing facilities, and transportation  
21 barriers in existing vehicles and rail passenger cars used by an  
22 establishment for transporting individuals (not including barriers that  
23 can only be removed through the retrofitting of vehicles or rail  
24 passenger cars by the installation of a hydraulic or other lift), where  
25 such removal is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv).
- 26 d. A failure to make alterations in such a manner that, to the maximum  
27 extent feasible, the altered portions of the facility are readily  
28 accessible to and usable by individuals with disabilities, including

1 individuals who use wheelchairs or to ensure that, to the maximum  
 2 extent feasible, the path of travel to the altered area and the  
 3 bathrooms, telephones, and drinking fountains serving the altered  
 4 area, are readily accessible to and usable by individuals with  
 5 disabilities where such alterations to the path or travel or the  
 6 bathrooms, telephones, and drinking fountains serving the altered area  
 7 are not disproportionate to the overall alterations in terms of cost and  
 8 scope. 42 U.S.C. § 12183(a)(2).

9 21. Where parking spaces are provided, accessible parking spaces shall be  
 10 provided. 1991 ADA Standards § 4.1.2(5); 2010 ADA Standards § 208. One in every  
 11 eight accessible spaces, but not less than one, shall be served by an access aisle 96 in  
 12 (2440 mm) wide minimum and shall be designated “van accessible.” 1991 ADA  
 13 Standards § 4.1.2(5)(b). For every six or fraction of six parking spaces, at least one shall  
 14 be a van accessible parking space. 2010 ADA Standards § 208.2.4.

15 22. For the parking spaces, access aisles shall be marked with a blue painted  
 16 borderline around their perimeter. The area within the blue borderlines shall be marked  
 17 with hatched lines a maximum of 36 inches (914 mm) on center in a color contrasting  
 18 with that of the aisle surface, preferably blue or white. The words "NO PARKING" shall  
 19 be painted on the surface within each access aisle in white letters a minimum of 12 inches  
 20 (305 mm) in height and located to be visible from the adjacent vehicular way. CBC §  
 21 11B-502.3.3.

22 23. Here, Defendants failed to provide a proper access aisle as there were no  
 23 “NO PARKING” markings painted on the parking surface. Additionally, the blue  
 24 hatched lines, which indicate the presence of the access aisle, were severely deteriorated,  
 25 hindering visibility.

26 24. The surface of each accessible car and van space shall have surface  
 27 identification complying with either of the following options: The outline of a profile  
 28 view of a wheelchair with occupant in white on a blue background a minimum 36” wide

1 by 36" high (914 mm x 914 mm). The centerline of the profile view shall be a maximum  
2 of 6 inches (152 mm) from the centerline of the parking space, its sides parallel to the  
3 length of the parking space and its lower side or corner aligned with the end of the  
4 parking space length or by outlining or painting the parking space in blue and outlining  
5 on the ground in white or a suitable contrasting color a profile view of a wheel chair with  
6 occupant. See CBC § 11B-502.6.4, et seq.

7 25. Here, Defendants failed to maintain paint of the International Symbol of  
8 Accessibility on the surface as required.

9 26. Under the 1991 Standards, parking spaces and access aisles must be level  
10 with surface slopes not exceeding 1:50 (2%) in all directions. 1991 Standards § 4.6.2.  
11 Accessible parking spaces shall be at least 96 in (2440 mm) wide. Parking access aisles  
12 shall be part of an accessible route to the building or facility entrance and shall comply  
13 with 4.3. Two accessible parking spaces may share a common access aisle. Parked  
14 vehicle overhangs shall not reduce the clear width of an accessible route. Parking spaces  
15 and access aisles shall be level with surface slopes not exceeding 1:50 (2%) in all  
16 directions. 1991 Standards § 4.6.3.

17 27. Here, the access aisle is not level with the parking spaces. Under the 2010  
18 Standards, access aisles shall be at the same level as the parking spaces they serve.  
19 Changes in level are not permitted. 2010 Standards § 502.4. "Access aisles are required  
20 to be nearly level in all directions to provide a surface for transfer to and from vehicles."  
21 2010 Standards § 502.4 Advisory. Id. No more than a 1:48 slope is permitted.

22 28. A public accommodation shall maintain in operable working condition those  
23 features of facilities and equipment that are required to be readily accessible to and usable  
24 by persons with disabilities by the Act or this part. 28 C.F.R. 35.211(a).

25 29. By failing to maintain the facility to be readily accessible and usable by  
26 Plaintiff, Defendants are in violation of Plaintiff's rights under the ADA and its related  
27 regulations.  
28







1 Defendants have discriminated against Plaintiff in violation of California Civil Code §§  
2 51 and 52.

3 36. The violations of the Unruh Civil Rights Act caused Plaintiff to experience  
4 difficulty, discomfort, or embarrassment. The Defendants are also liable for statutory  
5 damages as specified in California Civil Code §55.56(a)-(c).

6 **THIRD CAUSE OF ACTION**

7 **VIOLATION OF CALIFORNIA DISABLED PERSONS ACT**

8 37. Plaintiff incorporates by reference each of the allegations in all prior  
9 paragraphs in this complaint.

10 38. California Civil Code § 54.1(a) states, “Individuals with disabilities shall be  
11 entitled to full and equal access, as other members of the general public, to  
12 accommodations, advantages, facilities, medical facilities, including hospitals, clinics,  
13 and physicians’ offices, and privileges of all common carriers, airplanes, motor vehicles,  
14 railroad trains, motorbuses, streetcars, boats, or any other public conveyances or modes  
15 of transportation (whether private, public, franchised, licensed, contracted, or otherwise  
16 provided), telephone facilities, adoption agencies, private schools, hotels, loading places,  
17 places of public accommodations, amusement, or resort, and other places in which the  
18 general public is invited, subject only to the conditions and limitations established by  
19 law, or state or federal regulation, and applicable alike to all persons.

20 39. California Civil Code § 54.3(a) states, “Any person or persons, firm or  
21 corporation who denies or interferes with admittance to or enjoyment of public facilities  
22 as specified in Sections 54 and 54.1 or otherwise interferes with the rights of an  
23 individual with a disability under Sections 54, 54.1 and 54.2 is liable for each offense for  
24 the actual damages, and any amount as may be determined by a jury, or a court sitting  
25 without a jury, up to a maximum of three times the amount of actual damages but in no  
26 case less than one thousand dollars (\$1,000) and any attorney’s fees that may be  
27 determined by the court in addition thereto, suffered by any person denied the rights  
28 provided in Section 54, 54.1, and 54.2.

1           40. California Civil Code § 54(d) specifies, “a violation of the right of an  
2 individual under Americans with Disabilities Act of 1990 (Public Law 101-336) also  
3 constitute a violation of this section, and nothing in this section shall be construed to limit  
4 the access of any person in violation of that act.

5           41. The actions and omissions of Defendants alleged herein constitute a denial  
6 of full and equal accommodation, advantages, and facilities by physically disabled  
7 persons within the meaning of California Civil Code § 54. Defendants have  
8 discriminated against Plaintiff in violation of California Civil Code § 54.

9           42. The violations of the California Disabled Persons Act caused Plaintiff to  
10 experience difficulty, discomfort, and embarrassment. The Defendants are also liable for  
11 statutory damages as specified in California Civil Code §55.56(a)-(c).

#### 12                                   **FOURTH CAUSE OF ACTION**

#### 13                           **CALIFORNIA HEALTH & SAFETY CODE § 19955, et seq.**

14           43. Plaintiff incorporates by reference each of the allegations in all prior  
15 paragraphs in this complaint.

16           44. Plaintiff and other similar physically disabled persons who require the use of  
17 a wheelchair are unable to use public facilities on a “full and equal” basis unless each  
18 such facility is in compliance with the provisions of California Health & Safety Code §  
19 19955 et seq. Plaintiff is a member of the public whose rights are protected by the  
20 provisions of California Health & Safety Code § 19955 et seq.

21           45. The purpose of California Health & Safety Code § 1995 et seq. is to ensure  
22 that public accommodations or facilities constructed in this state with private funds  
23 adhere to the provisions of Chapter 7 (commencing with Section 4450) of Division 5 of  
24 Title 1 of the Government Code. The code relating to such public accommodations also  
25 require that “when sanitary facilities are made available for the public, clients, or  
26 employees in these stations, centers, or buildings, they shall be made available for  
27 persons with disabilities.  
28

1           46. Title II of the ADA holds as a “general rule” that no individual shall be  
2 discriminated against on the basis of disability in the full and equal enjoyment of goods  
3 (or use), services, facilities, privileges, and accommodations offered by any person who  
4 owns, operates, or leases a place of public accommodation. 42 U.S.C. § 12182(a).  
5 Further, each and every violation of the ADA also constitutes a separate and distinct  
6 violation of California Civil Code §§ 54(c) and 54.1(d), thus independently justifying an  
7 award of damages and injunctive relief pursuant to California law, including but not  
8 limited to Civil Code § 54.3 and Business and Professions Code § 17200, et seq.

9                                   **FIFTH CAUSE OF ACTION**

10                                   **NEGLIGENCE**

11           47. Plaintiff incorporates by reference each of the allegations in all prior  
12 paragraphs in this complaint.

13           48. Defendants have a general duty and a duty under the ADA, Unruh Civil  
14 Rights Act and California Disabled Persons Act to provide safe and accessible facilities  
15 to the Plaintiff.

16           49. Defendants breached their duty of care by violating the provisions of ADA,  
17 Unruh Civil Rights Act and California Disabled Persons Act.

18           50. As a direct and proximate result of Defendants’ negligent conduct, Plaintiff  
19 has suffered damages.

20                                   **PRAYER FOR RELIEF**

21           WHEREFORE, Plaintiff respectfully prays for relief and judgment against  
22 Defendants as follows:

23           1. For preliminary and permanent injunction directing Defendants to comply  
24 with the Americans with Disability Act and the Unruh Civil Rights Act;

25           2. Award of all appropriate damages, including but not limited to statutory  
26 damages, general damages and treble damages in amounts, according to proof;

27           3. Award of all reasonable restitution for Defendants’ unfair competition  
28 practices;

1           4.     Reasonable attorney's fees, litigation expenses, and costs of suit in this  
2 action;

3           5.     Prejudgment interest pursuant to California Civil Code § 3291; and

4           6.     Such other and further relief as the Court deems just and proper.

5                               **DEMAND FOR TRIAL BY JURY**

6           Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff hereby  
7 demands a trial by jury on all issues so triable.

8  
9 Dated: February 21, 2024

SO. CAL. EQUAL ACCESS GROUP

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12 By: /s/ Jason J. Kim  
13 Jason J. Kim, Esq.  
14 Attorneys for Plaintiff  
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